

**Letter of Findings: 09-0958**  
**Individual Income Tax**  
**For 2006 and 2007**

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**ISSUE**

**I. Taxable Income – Adjusted Gross Income Tax**

**Authority:** IC § 6-8.1-5-1(b); IC § 6-8.1-5-1(c); IC§ 6-8.1-5-4(a).

Taxpayer argues that the Department overstated the amount of his taxable income.

**STATEMENT OF FACTS**

Taxpayer owns and operates a wholesale car dealership located in Indiana. The Department of Revenue (Department) conducted an audit review of Taxpayer's business records concluding that Taxpayer owed additional individual income tax. Taxpayer disagreed and submitted a protest to that effect. An administrative hearing was conducted during which Taxpayer further explained the basis for his protest. This Letter of Findings results.

**I. Taxable Income – Adjusted Gross Income Tax**

**DISCUSSION**

The Department determined that Taxpayer owed an additional, total individual income tax liability of approximately \$1,500. The Department arrived at the conclusion after comparing Taxpayer's gross sales income to the costs of operating his business.

Taxpayer provided the Department's audit with sales records, a limited number of purchase invoices, monthly expense recaps, and various tax documents such as his federal income tax returns.

However, the audit found that Taxpayer "was unable to produce invoices totaling the amount of cost of goods sold and expenses claimed." Taxpayer explained that he had recently moved and that he could not locate all the requested documents.

Nonetheless, the Department accepted as presented the amount of gross sales Taxpayer filed on his federal return. For both 2006 and 2007, the Department agreed that Taxpayer had gross sales of approximately \$100,000 during each of the two years. In the absence of more complete expense records, the Department determined – based on information provided in "BizStates.com" that Taxpayer's net profit was 15 percent.

After allowing the personal exemptions claimed on the federal return, the Department issued the final audit report basing the assessment on the assumption that Taxpayer had approximately \$15,000 of taxable income each year.

The law requires that if the Department reasonably believes that a person has not reported the proper amount of tax due, the Department must then issue a proposed assessment of the amount of the unpaid tax on the basis of the "best information available" to the Department. IC § 6-8.1-5-1(b). Every person subject to a tax is required to maintain books and records which enable the Department to determine the amount of the person's liability by reviewing those books and records. IC§ 6-8.1-5-4(a). Specifically, the statute requires that the Taxpayer retain all "source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks."

In protesting the Department's assessment, it should be noted that it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made."

During the course of the administrative hearing, Taxpayer produced copies of checks drawn on his business account. Taxpayer produced these checks in the belief that his expenses and "cost-of-goods-sold" exceeded the amount of gross income received from selling cars. However, based upon the information provided both during the audit and after the audit, it is not possible to determine with any precision Taxpayer's actual expenses. In addition, a review of the bank records provided following the audit, establish that Taxpayer made deposits into the business account which had not been previously reported on Taxpayer's "Schedule C."

During the course of the administrative hearing, Taxpayer offered an alternative calculation of his business expenses. However, even accepting Taxpayer's argument on its face, his own calculations result in expense amounts which are less than the amount determined during the audit.

Taxpayer has failed to meet his burden of demonstrating that the proposed assessment is wrong. Taxpayer's records are incomplete and accepting Taxpayer's argument on its face results in an assessment greater than that assessed by the Department's audit.

**FINDING**

Taxpayer's protest is respectfully denied.

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